

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CONWAY MACKENZIE,

Plaintiff/Counter-Defendant,

Case No. 19-cv-10945

Hon. Matthew F. Leitman

v.

ROBERT BARNETT,

Defendant/Counter-Plaintiff.

/

ORDER RESOLVING PENDING MOTIONS AND STAYING DISCOVERY

There are five motions now pending before the Court. For the sake of docket efficiency, the Court resolves and decides the motions as follows:

1. Robert Barnett's Motion for Leave to file a Second Amended Counter-Complaint (ECF #22) is GRANTED. The Court is not persuaded that denial of the motion is warranted based upon any alleged delay by Barnett or based upon any alleged "false or pretextual grounds" (*see* Response to Motion, ECF #23 at Pg. ID 1013) offered by Barnett in support of the motion. To the extent that Conway MacKenzie contends that the newly-proposed counterclaims fail as a matter of law, Conway MacKenzie may present those arguments in a motion to dismiss the counterclaims. The Court concludes that addressing all of Conway MacKenzie's challenges to all of Barnett's counterclaims in a single motion is the most efficient

manner to proceed. Barnett shall file his Second Amended Counter-Complaint by not later than **July 22, 2019**.

2. Conway MacKenzie's Motion to Compel Arbitration, or, in the Alternative, to Dismiss (ECF #9) is DENIED AS MOOT in light of the Court's decision to permit Barnett to file a Second Amended Counter-Complaint. Conway MacKenzie may file another motion to compel arbitration and/or to dismiss once Barnett files his Second Amended Counter-Complaint. If Conway MacKenzie chooses to file such a motion, it shall do so by not later than **August 5, 2019**. If, instead, Conway MacKenzie chooses to file an Answer to the Second Amended Counter-Complaint, it shall do so by **August 5, 2019**. If Conway MacKenzie files another motion to compel arbitration and/or to dismiss, the Court will expedite consideration of that motion once it is fully briefed.

3. Robert Barnett's Motion for Leave to File a Sur-Reply (ECF #18) is DENIED AS MOOT.

4. All discovery on all claims and all counterclaims in this action (including any amended counterclaims to be included in Barnett's forthcoming Second Amended Counter-Complaint) is STAYED pending further order of the Court. Once the Court rules on Conway MacKenzie's anticipated motion to compel arbitration of, or to dismiss, Barnett's second amended counterclaims, the Court will confer with the parties concerning the issues raised on the now-pending motions for

protective orders. At that time, the Court will make a determination concerning the proper scope of discovery and concerning each party's obligations with respect to confidential information produced during discovery.

5. The Order referring Conway MacKenzie's Motion for Protective Order to Magistrate Judge David Grand (ECF #17) is VACATED.

6. Both of Conway MacKenzie's Motions for Protective Orders (ECF ## 16 & 21) are DENIED WITHOUT PREJUDICE. As noted above, the Court will revisit the issues raised in those motions, if necessary, following the Court's ruling on Conway MacKenzie's anticipated motion to compel arbitration or to dismiss.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: July 15, 2019

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 15, 2019, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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